IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.432 OF 2004
IN
NOTICE OF MOTION NO.434 OF 2000
IN
L.C. SUIT NO.688 OF 2000

Gururaya Krishna Shet)..Appellant
(Org.Plaintiff)

Versus

Municipal Corporation of Greater Bombay)..Respondents
(Org.Defendants)

Mr.S.N.Vaishnawa i/b.M/s.N.N.Vaishnawa & Co. for the Appellant.

Mr.J.Xavier for the Respondents.

Mr.R.G.Ketkar with Ms.Rutuja Ambekar for the Appellant.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 23RD NOVEMBER 2004

P.C.:

. Notice of Motion No.434 of 2000 filed by the Appellant-Plaintiff has been dismissed by the trial Court. According to the Appellant, the balcony of all the flats in the building have been enclosed. He resides on the ground floor and has enclosed the balcony. He has been paying assessment on the enclosed portion to the Respondents since 1991-92. The Appellant came in possession of the suit premises in 1991 and was, therefore, not able to produce the documents with regard

to the assessment only from 1991 onwards. The trial Court has refused the temporary injunction on the ground that the assessment records prior to the datum line i.e. 17th April 1964 have not been shown by the Appellant.

2. Parties were directed to maintain status quo by an order dated 19th April 2004 of this Court. The Suit has already been fixed for framing of issues. In my view, rather than going into the merits of the entire matter at this stage, it would be appropriate to continue the status quo as of today and to expedite the hearing of the Suit.

3. The order of status quo granted on 19th April 2004 in respect of the alleged illegal construction shall continue during the pendency of the Suit. Hearing of the Suit is expedited.

4. Appeal From Order disposed of accordingly.

5. In view of the Appeal From Order being disposed of, nothing survives in Civil Application No.581 of 2004 and the same is disposed of accordingly.